

**IN THE MATTER OF GENERAL MOTORS
CORPORATION, DELCO MORaine DIVISION, ET AL.**

RCRA Consolidated Appeal Nos. 90-24, 90-25

***ORDER DENYING REVIEW IN PART, REMANDING IN PART,
AND GRANTING REVIEW IN PART***

Decided November 6, 1992

Syllabus

This order consolidates two petitions for review filed by General Motors Corporation (GMC). The petitions seek review of the federal portion of two permits issued by Region V under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act. The first petition seeks review of a permit for GMC's Delco Moraine Division North Plant in Dayton, Ohio (North Plant), and the second for GMC's Delco Moraine Division South Plant, also in Dayton, Ohio (South Plant). The North Plant petition asks that review be granted with respect to: (1) the permit's definition of "solid waste management unit" (SWMU); (2) the allegedly improper designation of SWMUs; (3) the imposition of corrective action requirements at a former chrome plater site; (4) the allegedly overly broad corrective action requirements; (5) the permit's interim measures provision; (6) the permit provisions allowing the Region to modify interim submittals; (7) the Region's authority to modify a permit under RCRA § 3005(c)(3); (8) the permit provision requiring GMC to provide notice of changes in plant operations; (9) the permit's definition of "Hazardous waste"; (10) the permit's potential for allowing the misuse of photographs taken during EPA inspections; (11) the permit's failure to guarantee GMC's right to split samples; and (12) the permit's severability provision. The South Plant petition raises issues 1, 6-8, and 10-12 noted above. In addition, the South Plant petition seeks review of: (1) an alleged inconsistency in the duration of the permit; and (2) the Region's failure to delete a permit provision even though it had agreed to do so.

Held: Both permits are remanded to the Region. With regard to the North permit, the Region is ordered to: (1) modify the permit to correct inconsistencies in the timing for the submission of various reports and the items to be included in those reports and (2) ensure that Agency-initiated modifications to incorporate interim measures comply with the modification procedures at 40 C.F.R. § 270.41. With regard to both the North and South plant permits, the Region is ordered to: (1) remove language from permit condition I.B. allowing the Region to modify the permit "as determined necessary to protect human health and the environment, pursuant to Section 3005(c)(3) of RCRA"; (2) tailor Permit Condition I.D.10, if necessary, to fulfill the Region's HSWA obligations; and (3) add language to the permit guaranteeing GMC's right to split samples. Further, with regard to the South Plant permit, the Region is ordered to delete permit provision I.D.18 which was inadvertently included in the final permit.